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11-19-02

Docket No.: NEB-135-C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Wayne, et al EXAMINER: W. Sandals

APPLICATION NO.: 09/664,186 GROUP: 1636

FILED: September 18, 2000

FOR: Method For Construction Of *Thermus-E. coli*  
Shuttle Vectors And Identification Of Two *Thermus*  
Plasmid Replication Origins

The Honorable Commissioner of  
Patents and Trademarks  
Washington, DC 20231

Sir:

**DECLARATION UNDER 37 C.F.R. §1.132**

As a below named inventor, I hereby declare that:

1. I am one of the named inventors on the above-identified Application.

2. I understand that claims 1 and 2 were rejected under 35 U.S.C. §102(a) as being anticipated by Wayne, et al. (*Gene*, 202:83-88 (1997)), for reasons set forth in the Official Action mailed June 11, 2002. That reference lists three (3) authors: Jay Wayne, Megan Holden, and Shuang-yong Xu. One of the co-authors, namely Megan Holden is not listed as inventors of the instant Application. Megan Holden was involved in the subcloning and restriction mapping of pTsp45S and worked under my direction and supervision. While she contributed to the work described in the Reference U, namely, the subcloning

Wayne, et al.

U.S.S.N.: 09/664,186

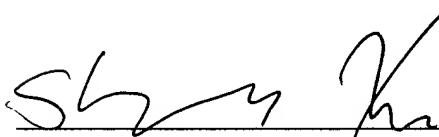
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Declaration Under 37 C.F.R. 1.132

and restriction mapping of pTsp45S, she did not contribute to the inventive work embraced in the claims presented in the instant Application.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
\_\_\_\_\_  
Shuang-yong Xu

11-4-02  
Date